

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

**JENNIFER PIGGOTT and
SLADE PIGGOTT,**

Plaintiffs,

v.

GRAY CONSTRUCTION, INC.,

Defendant.

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Case No.: CV-06-1158

**GRAY CONSTRUCTION, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO
Hwashin AMERICA CORPORATION, BY AND THROUGH ITS WORKERS
COMPENSATION CARRIER, THE ALABAMA SELF-INSURED WORKER'S
COMPENSATION FUND'S COMPLAINT IN INTERVENTION**

Defendant in Intervention Gray Construction, Inc. ("Gray"), pursuant to Federal Rules of Civil Procedure, Rules 7, 12 and 24, hereby files its Answer and Affirmative Defenses to Plaintiff in Intervention Hwashin America Corporation's, by and through its workers compensation carrier, The Alabama Self-Insured Worker's Compensation Fund's ("Hwashin"), Complaint in Intervention and asserts the following Affirmative Defenses.

1. Gray is without sufficient information to admit or deny the allegations of Paragraph No.1 and therefore denies the allegations of Paragraph No. 1.
2. Gray is without sufficient information to admit or deny the allegations of Paragraph No.2 and therefore denies the allegations of Paragraph No. 2.
3. Gray is without sufficient information to admit or deny the allegations of Paragraph No.3 and therefore denies the allegations of Paragraph No. 3.

4. Gray is without sufficient information to admit or deny the allegations of Paragraph No.4 and therefore denies the allegations of Paragraph No. 4.

5. Gray is without sufficient information to admit or deny the allegations of Paragraph No.5 and therefore denies the allegations of Paragraph No. 5.

6. Gray admits that Plaintiff Jennifer Piggott has filed suit against it in this action. Except as expressly admitted, Gray denies the allegations of Paragraph No. 6.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Hwashin's Complaint in Intervention fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Gray is not liable to Plaintiff Jennifer Piggott for the underlying allegations contained in her Complaint and therefore neither Mrs. Piggott nor Hwashin can recover from Gray.

THIRD AFFIRMATIVE DEFENSE

Gray owed no duty to Mrs. Piggott at the time of her accident and therefore neither Mrs. Piggott nor Hwashin can recover from Gray.

FOURTH AFFIRMATIVE DEFENSE

Gray did not breach any duty owed to Mrs. Piggott and therefore neither Mrs. Piggott nor Hwashin can recover from Gray.

FIFTH AFFIRMATIVE DEFENSE

Gray's alleged breach of duty was not the proximate cause of Mrs. Piggott's injuries and therefore neither Mrs. Piggott nor Hwashin can recover from Gray.

SIXTH AFFIRMATIVE DEFENSE

Mrs. Piggott's alleged injuries were proximately caused by an Act of God and therefore neither Mrs. Piggott nor Hwashin can recover from Gray.

SEVENTH AFFIRMATIVE DEFENSE

Mrs. Piggott's alleged injuries were proximately caused by Hwashin's failure to maintain the roof drains which led to the roof collapse.

EIGHTH AFFIRMATIVE DEFENSE

Hwashin is barred from recovery by the doctrine of contributory negligence.

NINTH AFFIRMATIVE DEFENSE

Hwashin is barred from recovery by the doctrine of unclean hands.

TENTH AFFIRMATIVE DEFENSE

Hwashin has contractually waived all rights of recovery against Gray.

DATED this the 25th day of May, 2007.

By: 

E. Britton Monroe (MON032)

Mickey B. Wright (WRI048)

Brian M. McClendon (MCC133)

Attorneys for Defendant Gray Construction,
Inc.

OF COUNSEL:

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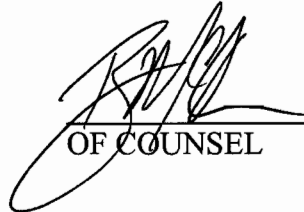
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed and served upon the following on this the 25th day of May, 2007:

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